UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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ROSE ANN PAGUIRIGAN, individually and
on behalf of all others similarly situated,   :

                    Plaintiff,   :   1:17 Civ. 1302 (NG) (JO)

             -vs-   :   **DECLARATION OF**
                                 JOHN J.P. HOWLEY

PROMPT NURSING EMPLOYMENT AGENCY   :
LLC d/b/a SENTOSA SERVICES,
SENTOSACARE LLC, SENTOSA NURSING   :
RECRUITMENT AGENCY, BENJAMIN LANDA,
BENT PHILIPSON, BERISH RUBENSTEIN a/k/a   :
BARRY RUBENSTEIN, FRANCIS LUYUN,
GOLDEN GATE REHABILITATION & HEALTH   :
CARE CENTER LLC, and SPRING CREEK
REHABILITATION AND NURSING CENTER,   :

                Defendants.   :
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     John J.P. Howley, an attorney duly admitted to practice before this Court, declares as

follows:

     1.   I am the attorney of record for named plaintiff Rose Ann Paguirigan and the

plaintiff class in this action. I submit this declaration in support of plaintiffs' motion for

summary judgment on the issue of damages and for reconsideration.

     2.   At a status conference on February 26, 2020, the Court directed the parties to

attempt to reach agreement on the assumptions underlying their damages submissions and the

mathematical calculation that would flow from them. A copy of the transcript of the Status

Conference is annexed as Exhibit 1.

     3.   As noted in the parties' Joint Status Reports filed on March 17, June 8, and July

24, 2020, the parties worked diligently together for more than five months in pursuit of that

objective. See ECF Dkt. Nos. 122, 128, 129. They exchanged detailed spreadsheets, each with more than 14,000 lines of payroll information, to determine the amount of wages actually paid to each class member. *See id.*

4.   This exercise revealed no genuine issues of material fact with respect to the dates of employment, the annual prevailing wages that should have been paid, or the amounts of regular wages actually paid to each class member.

5.   Attached as Exhibit 2 is a summary of the annual prevailing wage for the appropriate geographic area that was in effect on the Commencement Date of each class member who claims an underpayment of the prevailing wage. It is based on the annual prevailing wages determined for each geographic area by the U.S. Department of Labor. A draft of the document was sent to defendants' attorneys, who responded with their own spreadsheets. The spreadsheets were compared using Microsoft Excel software, all differences were checked against the source documents, and corrections were made as necessary.

6.   Attached as Exhibit 3 is a summary of the payroll records that were produced by defendants during discovery. The Bates number of each payroll record, employee name, date of payroll check, number of regular hours worked, regular rate of pay, and total regular compensation paid during each pay period was input by a data entry person. These spreadsheets were then transmitted to defendants' attorneys, who responded with their own spreadsheets. The spreadsheets were compared using Microsoft Excel software, all differences were checked against the source documents, and corrections were made as necessary.

7.   The first column in Exhibit 3 identifies the Bates numbers of the payroll records from which the other information is derived. The second column identifies the paycheck dates. The third column identifies the class member's first name. The fourth column identifies the class

member's last name. The fifth column states the number of regular hours worked by the class

member during the work week covered by the payroll record. The sixth column states the hourly

wage paid for the regular hours worked. The seventh column states the total regular

compensation paid to the class member during the work week covered by the payroll record.

8.   For each 12-month period or part thereof, the total regular compensation paid to

the class member is calculated in the seventh column of Exhibit 3 as the sum of the regular

compensation paid during each work week. The annual prevailing wage is identified in the

eighth column. The underpayment is calculated in the ninth column by subtracting the total

regular compensation paid from the annual prevailing wage.

9.   When a class member worked for a period of less than 12 months, the eighth

column lists the pro rata annual prevailing wage. The pro rata annual prevailing wage is

calculated using the following formula: annual prevailing wage x (number of weeks worked /

52). All mathematical calculations in the spreadsheet were computed by the Microsoft Excel

software program.

10.   The total underpayment to the class is $1,559,099.79. This amount is calculated

at the bottom of the ninth column of Exhibit 3 as the sum of each of the individual

underpayments.

11.   Attached as Exhibit 4 is the transcript of the deposition of defendant Berish

Rubenstein.

12.   Attached as Exhibit 5 is the transcript of the deposition of defendant Francris

Luyun.

13.   Attached as Exhibit 6 is the Declaration of Marx Ong and Exhibits.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 25, 2020.

_____/s John J.P. Howley_____
John J.P. Howley